G. R. S. IX-5]

Previous references.

File No. 16-24

1924.

Serial Nos. 1-5

(In gore)

Later references.

May 1932 30-3, 6 a, 1-4 11

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Part B for March 1925

SUBJECT.

Appeal / edition from Khaja Mir Mahomed Hyder for a stay order re affairs of the Jamma Masjid in the Doddpet, Shimoga Town, pending disposal of the insolvent petition.

Or. 1298 Dated 2-3-25 To the Inregrara Comm

The Dy. Commr' order directing a reference being made to the District Judge, Shimoga, under Section 4, is accordingly set aside

W D 88—GPB—50,000—24-7-16

MUZRAI SECRETARIAT.

(Muzrai)

NOTES.

File No.

FILE HEADING.

Affairs of the Jumma masjid in the Doddapet, Shimoga town.

From Khazi Mir Mahomed.

~~No~~ Petition Dated Received 22-2-22

Diary No.	Enclos.	Spare Copies.	Serial No
115	2	-	1

BRIEF ABSTRACT OF LETTER.

Appeals against the Shimoga Dy Comrs order refusing the dispute about the title of the masjid & certain properties etc to the Dist. Judge Shimoga under sec. 6 of the Mys

NOTES AND ORDERS.

Regd in whose jurisdiction the entire property and the cases are (i.e. Shimoga) and, Bangalore [illegible] under sec. [illegible]

B W A The petition is duly stamped. A copy of the Dy. Comrs order is [illegible]

Mr Ambekar to appear in the case if necessary

NOTES—First Sheet

WD 0560—GPB—500—9 8 22

G. E. S. III-2]

Muzrai Secretariat | Muz. File No. 11 of 1924.

Serial No.

is filed with the record.
Against the Dy. Comrs. order
the parties have approached
the Muz. Comr. and that office
has informed the petr.
that he is not the appellate
authority. (Endt no. 33 dt
21-7-1924). The appeal is
therefore in time.

Rec. Secretary's order:—
Presented by Mr Khaleel-ur-
man, that the Dy. Comr.
should be asked not to
pursue the case till the
appeal is decided. Please
submit to II Mr member
urgently."

Submit for orders

4 The masjid is clearly a wakf
under Institution, because the Mutwalli
Asst referred the parties to the Civil
Courts and the Dy Comr has rightly

More is necessary to show as to the Dy Comrs. duty that the masjid is a wakf under

NOTE—Contn. sheet

WD 0561—GPB—3750—1 8 22

115

Muzrai Secretariat | Muz. File No. 16 of 192 4

Serial No

In case of the Dt Judge. Whether action of the DJ com^r in ~~calling for~~ entertaining the appeal itself in respect of a non mutta inam is correct is a point for orders.

RB
25/7/24

Have you not a list of Muz Institutions. Please verify & submit today. Please also put up Muz Register

25. 7.24

There is no list of Muz insms in the cash grant register has worked into and the insm in question does not find a place in it.

Submitted
MV 25.7.24
25.7.1924

(A) It is not likely to be a Muz Institn. It appd, a stay over matter issued, and records called for & examined

25.7.24

665/25 2nd member

(A) I agree

26/7

25/7

NOTE—Contn sheet

WD 0661—GPB—3750—1 8 22

Muzrai Secretariat | Muz. File No. 16 of 192

Serial No.

DOs Submn

28.7.24

9 sons

28/7

2 To the Muz. Commr. No. 163 d. 29.7.24. Fds the above petition for report with en tire records and requests that the D.C. may be directed to stay execution of his order appealed against pending orders of Court on the appeal petition.

3 To the petr thr' his Advocate Mr. V. J. Kha leb. No. 162 d. 29.7.24. Informs him of the above.

4. From, the Muz. Comr.

Letter no c. 167 dy 1.9.24.

Submits the report calld for in Sl. 2, and States that the 2nd Judge has been requested to defer further action in the reference made by him, to the Court pending.

OTE—Contn. sheet

WD 0561—GPB—3750—1 8 22

Serial No.

appeal by Govt.

The orders of the Sub Divl officer dt 5-5-1923 and the Dy. Comr appealed against explain the facts of the case.

The masjid in question is a non-muzrai inst^n. The complaint is that certain maligas or shops situated in front of the jumma masjid in question are the property of the masjid and that the Kazi - the present applt - who is merely a trustee or manager of the property has been mismanaging them and misappropriating the income therefrom.

The Sub Divl officer who heard the contending parties and their advocates, states that the properties do not appear to have been made over as a trust under any deed, that though the Registration

NOTE—Contn. sheet

may admit of Govt. interference in the affairs of even a non-Muzrai instn. under certain circumstances, he does not consider that the facts of the case warrant such action, Mad. G.O. no. 3639 - Muz. 336-10 dt. 14.4.1921 wherein Govt have declined to interfere in the matter of the mismanagement of certain houses, shops etc. alleged to belong to the mosque - which is a private instn. in Sultanpet, Bangalore, is clearly applicable to the case in point, and has dismissed the petition of the present respondents. He has ordered that the parties may have recourse to a civil Court or seek the aid of arbitrators. post as they may be advised.

The Dy. Comm before whom the matter went up stated that having regard to the importance of the question which has far reaching effects on the Muslim Community which is torn into factions owing to the unique attitude adopted by the cr. pet. (Makandar) and to the welfare of the mosque, he considers it essential to refer the dispute to the Dy. Judge, Shimoga, under Sec. 4 of the Muzrai Regulation in whose jurisdiction

Serial No.

The entire property and the limits are situated.

3) Against the foregoing order, the Khazi has appealed to Court - the grounds for appeal are summarized in the petition.

4) The appellant contends that the application of the Mus. Regn by the Dy. Comr is not warranted by law and the facts of the case, that the Dy. Comr's order is opposed to law and equity, that the order of reference (to the Dist court) has prejudices the appellant and that by taking the initiative of its own accord, the Dy. Comr has led the applt to apprehend that the Dy. Comr has shown interest in the respondents' case.

Submits.

AV 22-9-84

The Dy. Comr has requested.

5

NOTE—Contn. sheet.

The Dist. Judge to defer further action on the reference made by him to the court pending the disposal of the appeal by Govt. may the appeal be posted for hearing, notice being given to the contending parties?

AL
22-9-1931. 1) This is a non muzrai institution and the enquiry of the Sultanpet mosque in regard to which Govt. passed orders No 3639/Inam 336-10-12 & 14.4.21 applies to this case. The ~~position~~ case is one in which the interference of Govt. does not seem to be called for, and the parties may be left to settle their disputes either by arbitration or by having recourse to Court of Law.

SG
23/9/31 2) Move put up Muz Regr.
25/9/31

deputed. 3) Muzrai Regr is informed.

M
25.9.31.

2) The Dy Comr's reference to the Civil Court under the 4 of the Muz Regn Act does not seem to be correct. That

G. R. S. III 2]

WD 9310—GPB—10 000—31 5 24

General and Revenue Secretariat.

File No. 16 of 1924.

Serial No.

Section provides for reference only when there is a dispute as to the actual existence of a trust, but the dispute in this case is about the lands that are in the possession of the Malekkandar, which the petitioners ~~were~~ alleged were being mismanaged by them. ~~He alleged that~~ ~~Held~~ contends that the properties belong to his family & are not the property of the trust. Instead of referring to the Court the Dy Com^r could perhaps have proceeded under Sec 8 of the Mad Regn of Societies Enquiry as to the title of the institution to the properties in question & the mismanagement & dispose of the question on its merits. This is just what is stated in para 2 of the appeal memo. (Ex 2)

Rev. Sec.

11 Mar

17.9.24

2.10

5.10

131/4.10

22) Case may be posted for hearing on 29th Nov notice to both parties

2

16-10

17.10.24

NOTE—Contin. sheet

Dft. notices ordered.

AV
18.10.24.

25) Please send fair copies of notices and draft proceedings

RL
18/10/24

Issue
19.10.24

2/12/24

26) Mr A. J. Khaleel appears for applicant and moves for an order as Mr B. Sundaram who has been engaged in this case cannot appear only as a solicitor for respt has not yet been admitted to the Bar.

Adj accordingly to 10th inst. Jan's

2/12/24

Dft. notices held
AV
4.12.24.

Issue
5.12.24

26) Case called

Mr B. Sundaram for Mr Khaleel for applt and moves for respt's counsel. Order reserved

2

Serial No.

27) The Dep[t] Com[r] has asked a reply to his D.O. letter dated 4th Dec[r] 1924 regarding the nature of the properties in Mysore. See 4 of the Rules for a decision regarding the nature of the properties in dispute. See 4 of the Rules has to be read along with Sec 3 of the Act and is applicable only to the case of persons who satisfy the conditions mentioned in the latter section. The ~~proposed~~ ~~Institution of proceedings under Rule 4~~ is ~~in~~ case. does not satisfy these conditions, and Sec 4 of the Rules cannot be thus made applicable. ~~to the case~~ - The D[r] Com[r] under duress a reply being made to the Chief Com[r] under Sec 4. is accordingly set aside

28) It is open to me, to the Chief Officer to take action under Sec 8 of the Rules. if I take over the management in exercise of the powers conferred by the Rules I have the management of the properties in question belong to the Mysore Government & have the same management of Mysore Government for the purpose of managing the public interests

Dy
9.2 8/2
9.2.25

27) Dr. under Secretary NOTE—Contn Sheet
Am 27.2.25 30/2/25
2.2(25)
9.2.25

G.R.S. III-2]

Mang. File No. 16 of 1924.

2

Serial No.
5

To the Mang. Yamamu. No. 1298 d. 2.3.25.
Re copy of your order in Mangrui appeal No. 9 of 1923-24 setting aside the Shimoga DM Yamamu's order of 17th April 1924 stating that it is however open to the M.G. to take over the institution under your management under Section 8 & 9 of the Mang. Regln.

5/8/25

NOTE—Contn. Sheet

UPE ۲-۱۱۱۷

Before the Government of H. H. the Maharajah of Mysore. Bangalore Mensg. 16-24-1.

Inamdari Appeal No of 1924-25

GEN. & REV. SECRETARIAT. 21 JUN 1924 MYSORE

Dno 115

Appellant (Petitioner)

Khaja Amir Mahmood.

Respondent (Opponent)

1) B S. Anwer Ahmed and 15 others.

Presented by the Khalasi. He wants this to be shown to counsel and to pursue it as the time for appeal is due today. Please submit to Dewan for enquiry. Perup

Under section 21 of the Inamdari Regulation No VI of 1913 the appellant begs to appeal against the order of the Deputy Commissioner Shimoga in and the Inamdari's communication of 21/7/24 Inamdari No. 12 of 1923-1924, for the following amongst other reasons: -

i) The Deputy Commissioner erred in himself taking the initiative and making reference to the District Court although parties did not solicit it.

ii) After enquiry and report of the Assistant Commissioner the Deputy Commissioner should have himself disposed of the case and the reference was unnecessary. If at all under section 5 the Deputy Commissioner should have authorised one of the parties to file the suit. By taking the initiative of his own accord the Deputy Commissioner has led the petitioner to apprehend that the

Deputy Commissioner has shown interest in the appellant's cause.

iii) The Order of the Reference has considerably prejudiced the appellant.

iv) The Order of the Deputy Commissioner is also opposed to law and equity. The application of the provisions of the Inungrai Regulation to the case in question is not warranted by law and the facts of the case.

v) The appellant invoked the interference of the Inungrai Commissioner in his petition filed before him on 19-6-1924. The said petition was admitted and it was understood that the records of the case were called for from the Deputy Commissioner. The case was even expected to be posted for hearing. Meanwhile an endorsement has been received by the petitioner's advocate which is produced herewith stating that the Inungrai Commissioner is not the proper appellate authority. Hence this petition. The Inungrai Commissioner should have under the circumstances returned the petition presented to and received by him for the same being presented before the proper authority. However as the petitioner's application is said to have been sent to the Deputy Commissioner Shimoga

and not received yet and as the case against the District Judge Shimoga on the order of reference is for hearing on the 24th. instant, petitioner files this petition. The petitioner submits that for the foregoing reasons and for the reason that the petitioner had bonafide information of the change in the Inamdari Regulation allowing an appeal in the last instance to the Inamdari Commissioner, the petition is not barred by time. The Certified Copy of the Deputy Commissioner's order which petitioner had, has been filed before the Inamdari Commissioner and soon after receiving the same from the said Court or after obtaining another Copy from the Deputy Commissioner's Court Shimoga, it will be produced here. Meanwhile he begs to produce herewith a private Copy of the order of the Deputy Commissioner which to the best of his knowledge is a true and faithful Copy or at least the same may be kindly taken as embodying the facts of the case.

The petitioner respectfully prays that Government will be pleased to call for the records from the Deputy Commissioner and the Revenue Commissioner, set aside the order of reference made by the

deputy Commissioner and pending

of this petition to order further proceedings

after be enlarged

(2006) unnecessary

Charity

List of papers annexed hereto.

Private copy of the order of the
Deputy Commissioner
to be typed copy
Appellant's

R. Sudhakar Pai
A J Khaleel
Advocates for
the appellant
petitioner

In the Court of the Deputy Commissioner
Shimoga District

Present: A. K. Syed Tajpeeran Esqr B.A,
Deputy Commissioner
Shimoga District.

Rev Miss Appeal No: 12 of 1925-26

Appellants.
B.S. Amir Ahamed
S. Abdul Gani &
14 others.
(By Mr. D.G. Narayana Iyengar)
Advocate

vs

Respondent,
Mir Mahamed Sab
Tehazi Shimoga
(By Mr. B. Gundachar)
Advocate.

This is an application against the order of the Treasury Assistant Commissioner Shimoga directing that the parties concerned may have recourse to a civil Court or seek the aid of arbitrations for the settlement of the dispute relating to the affairs and properties of the Jumma Masjid in the Dodda, Shimoga Town.

Facts of the case,

The appellants presented an application to the Deputy Commissioner on 28-2-1922 under Sec 8 & 9 of the Mysore Regn praying that the affairs of the Jumma Masjid Doddapeth Shimoga Town which were in a very unsatisfactory condition may be enquired into & necessary arrangements made for its proper working. The petition was referred to the Sub Division officer for disposal. The Treasury Assistant Commissioner Shimoga to whom the jurisdiction over Shimoga Taluk was subsequently transferred passed the following order after perusing the copy of Judgment in OS. 772-1925-26 on the file of the Shimoga Munsiff's Court produced by the appellants and the written statement filed by the counter-petitioner and also hearing the Counsels on behalf,

behalf of both the parties

"The parties concerned may have recourse to a civil court or seek the aid of arbitrators for the settlement of the dispute relating to the properties in question

The Government order no: 3639/Mis 836-6-2 dated the 14th April 1921 regarding the properties of the Khazi of the Mosque in Sultanpet Bangalore city produced before the lower court on the analogy of which the decision of the Treasury Assistant Commissioner is based is enclosed in the file.

The grounds of appeal are as follows: —

(1) The Assistant Commissioner erred in not entering into an enquiry as to the title of the Masjid to the property in question and not affording an opportunity to the petitioners to prove it.

(2) The Assistant Commissioner further erred in not making reference as called for in Sec 4 of the Inam Regn.

(3) He erred in the opinion that the Govt order quoted by the opponent had any bearing to the present Case.

For the foregoing reasons the appellants pray that the order under appeal may be set-aside and either an enquiry may be directed into the title of the property or a reference may be made to the Civil Court as contemplated under Sec 4 of the Inam Regn.

The Treasury Asst Commr to whom the petition was forwarded for report stated in his no: I & 22-23 dated 26-6-1923 that regarding the reference to a civil court under Sec 4 it is not obligatory & that it is open to the parties to proceed as laid down in alternative section of the Inam Regn.

Order.

The proceedings were instituted under Sec 4 of the Inam Regn on the petition produced of the appellant alleging that the Counter petitioner in his capacity as a "trustee" or "Muthavalli" was grossly & persistently mismanaging the endowed properties

the Jumma masjid situated in Doddapet of the Shimoga town. His petition was referred to the Sub Division Officer ~~for~~ Shimoga Taluk for enquiry and disposal.

The Treasury Assistant Commr who is the Sub Division officer for the Shimoga Taluk heard the counsels on both sides and opined that it was a matter for the civil court to decide as the counter-petitioner at the outset disputed the title of the masjid to the properties & claimed himself to be the owner thereof.

Heard Mr. Jg. Narayana Iyengar for the appellant and Mr Ganadachar for the respondent. It is seen from the record that there was litigation in respect of some of the properties in the court of the Munsiff of Shimoga in which it was held that the property belonged to the masjid. In the same suit the uncle & the brother of the counter-petitioner who were his predecessors in title admitted that this property was constructed out of contribution collected from Muslims for the benifit of Mosque. The counter-petitioner now says that these statements are not binding on him as he was not a party to the proceedings & as such it cannot be held that the decree of the Munsiff may be regarded as res-judicata so far as the claims of the counter-petitioner are concerned.

It is also in record that a dispute arose so far back as in 1893 with regard to the ownership of this property & ever since the rent payable to the house of the Education Deptt was deposited in the Govt Savings Bank under the orders of the Deputy Commissioner that till now nobody succeeded in establishing the claim & drawing the accumulated amount.

The Govt order quoted by Mr Ganadachar is not applicable in this case it does not restrict the discretion vested in the magistrate under Sec 4 in referring such cases to the District Judge.

Having regard to the importance of the question which has far ~~reaching~~ effects on the muslim

community

community which is torn into factions
to the unique attitude adopted by the counter-petitioners
and to the welfare of the mosque which is the only
institution of importance in the town and of some
antiquity I consider it essential to refer this
dispute to the District Judge Shimoga under Sec. 4
of the Muz Rely in whose jurisdiction the entire
property and the institution are situated.

The following will be the points for reference:-

(1) Whether the properties are "wakf" properties and
actually constituted as such in respect of the Masjid

(2) Does the counter-petitioner possess any hereditary
claims to manage these properties as "Muthawalli"

(3) Has there been mismanagement?

(4) What arrangements in the opinion of the Court
would be considered conducive for the efficient
management of these properties? Appeal allowed

S d:
17-4-29 24.

Office of the Muzrai Commissioner in Mysore,

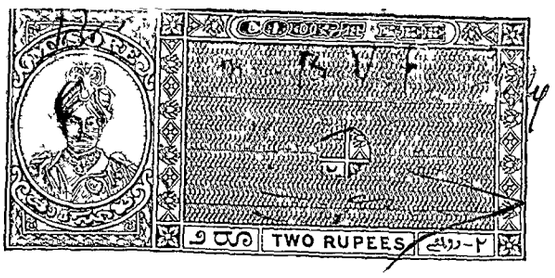
Bangalore, Dated 21st July 1924.

Official Memorandum.

With reference to his letter dated 18th July 1924 re the affairs and properties of the Jumma Masjid at Shimoga and requesting the stay of proceedings in the Civil Court, Mr.A.J.Khaleel, B.A.B.L, Advocate, 99 and 100 Lubbay Masjid Street, Civil and Military station, is informed that the undersigned is not the appellate authority.

MAN.

For Muzrai Commissioner.



~~In the Court of the~~

Before the Government of His Highness the Maharaja of Mysore Bangalore

CASE NO. OF 192 .—192

Appellant ~~Plaintiff~~ *Respondent ~~Defendant~~.*

... Mahadeyappa Basappa Kuchanur	Vs.	..... Basappa Ishwarappa & 14 others
.....		.....
.....		.....
.....		.....

1... I the ~~Appellant~~ ... above named do by these presents, retain Messrs. B. V. RAMASWAMY CHETTY Advocate, R. VENKATA RAMIAH, M A, L L B. and A. J KHALEEL, B. A B L. to appear and conduct the above case on ... my ... behalf to judgment.

2.....I.....further empower them to do all necessary acts in the above case to execute any decree or order that may be passed in .. .. my ..... behalf and to receive from the Court all documents, refunds, and all sums of money that .....I..... .. may be entitled to get and grant receipts therefor.

3 . .....I.....also undertake to confirm and ratify all the acts done by the said Advocates or by any other Advocate on their behalf in so doing.

BANGALORE,
.. .. 24/..7/1924.

Personally known to me and signed in my presence,

Ag. Khaleel

Accepted
B. V. Ramaswamy Chetty
R. Venkata Ramiah
A. J. Khaleel
Advocates

23 M.L. - 119

33 -24.

26.6.19

26/6/26

Dy

(Khalsat + Copy)

In the Court of the Inmyrai Commissioner
in Mysore Bangalore

Inmyrai No. of 1923-24.

Appellant :— Respondents :-

Mir mahamood Saheb
Khaji, Shimoga.

1. B. S. Amir Ahamad
Timber merchant Shimoga
2. S. Abdul Ghani Saheb
Honarary Magistrate,
Shimoga
3. Mahamed Suleman
Sait, merchant Shimoga.
4. M. Abdul Rahim Saheb
Honarary Magistrate,
Kumsi
5. Habib Shukur Jawa
merchant Shimoga
6. Noormahamad Ibrahim
Sait merchant Shimoga
7. Syed Khalil Saheb
Posh - Imam, Savaji Polya
Shimoga
8. Gachiwakan Imam
Saheb merchant Shimoga
9. Abdulla Sharif Saheb
merchant, Shimoga
10. B. Mahamad Peer Sab
Timber merchant Shimoga.
11. Mahaan Ummar Saheb
Contractor Civil Hospital
Shimoga
12. M. Hussen Sharif merchant
Shimoga
13. Adam Jan Mahamad
Sait merchant Shimoga
14. S. Khajamohadin Saheb
Accountant Mysore Bank,
Shimoga.

15. Shukur Saheb,
16. Hashaw Haji Gunny
Merchant, Shimoga

Under section 21 the appellant begs to appeal against the order of the Deputy Commissioner in Miscellaneous No. 12 of 1923-24 for the following amongst other reasons :—

1. The Lower Court erred in itself taking the initiative and making reference to the District Court although parties did not solicit it.

2. After the enquiry and report of the Assistant Commissioner the Lower Court should have itself disposed of the case and the reference was unnecessary. If at all under section 5 the Lower court should have authorised one of the parties to file the Suit. By taking the initiative of its own accord the Deputy Commissioner has led the applicants to apprehend that the Deputy Commissioner has shown interest in the respondents' cause.

3. The order of reference has considerably prejudiced the appellant

4 The order of the Deputy Commissioner is also opposed to law and equity

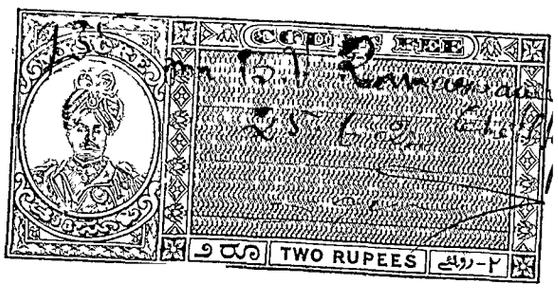
5. The application of the provision of the Muzrai Regulation to the case in question is not warranted by law and the facts of the case.

6. Wherefore it is prayed that His Honourable Court may be pleased to set aside the order of reference and decide the case upon merits.

Mohammed Hussain
Shetty
K. Venkat Rao Pai
A. J. Khabeel

Advocate

12 D
25



In the Court of the Munsif Commissioner in Mysore Bangalore.

Munsif **CASE NO.** **OF 1923.—1924.**

Appellant Plaintiff		*Respondent Defendant.*
Khaja Amir Mahmood ..	Vs.	B. S. Praveen Kharad ..
.....		.. and others ..
...		.....
...		...

1... I the appellant above named do by these presents, retain Messrs. B. V. RAMASWAMY CHETTY Advocate, R. VENKATA RAMIAH, M A, L L. B. and A J. KHALEEL, B. A B L. Advocate to appear and conduct the above cases on ...my..... behalf to judgment.

2.....I.....further empower them to do all necessary acts in the above case to execute any decree or order that may be passed in .. ...my.....behalf and to receive from the Court all documents, refunds, and all sums of money that .....I..... .... may be entitled to get and grant receipts therefor.

3 . .....I....also undertake to confirm and ratify all the acts done by the said Advocates or by any other Advocate on their behalf in so doing.

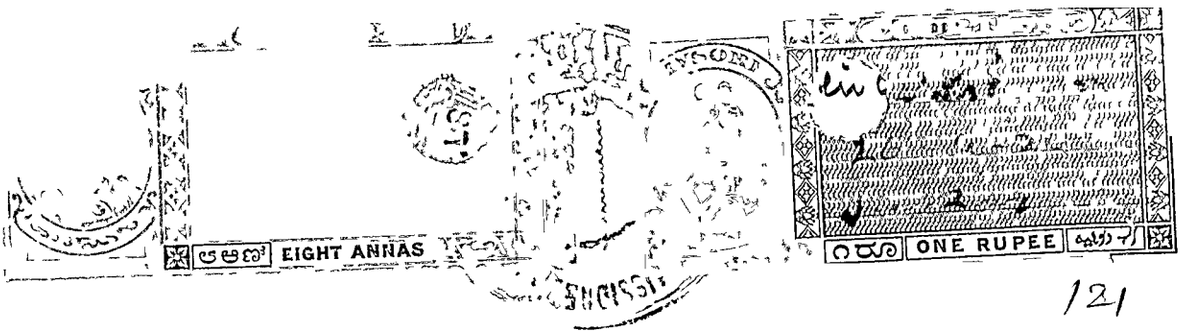
BANGALORE,
.. ..18/6/.. ..1924

(Sd Khaja Amir Mahmood)
Advocate

Personally known to me and signed in my presence,

A. J. Khaleel.

Accepted
B. V. Ramaswamy
A. J. Khaleel
Advocates



121

In the Court of the Deputy Commissioner
Shimoga District

Present: A.X. Syed Taj Ferran Esqre B.A.
Deputy Commissioner
Shimoga District

Revenue Miscellaneous Appeal No. 12 of 1923-24.

Appellants
B.S. Amir Ahamed & S. Abdul Ganni and 14 others
(By Mr. T.G. Narayandeyengar) Advocate.

Respondent
Mir Mahamad Sab Khaji, Guiry
(By Mr. B. Gandachar) Advocate

This is an appeal against the order of the Treasury Assistant Commissioner Shimoga directing that the parties concerned may have recourse to a civil court or seek the aid of arbitrators for the settlement of the dispute relating to the affairs and properties of the Jumma Masjid in the Doddapet Shimoga Town.

Facts of the case.

The appellants presented an application to the Deputy Commissioner on 28-2-1922 under Sections 8 and 9 of the Mysore Regulation praying that the affairs of the Jumma Masjid, Doddapet Shimoga Town which were in a very unsatisfactory condition may

may be enquired into and necessary arra
-ngements made for the Ber working

The petition was referred to the Sub Division officer for disposal. The Treasury Assistant Commissioner Shimoga to whom the jurisdiction over Shimoga Taluk was subsequently transferred passed the following order after perusing the copy of judgement in O.S. 772 of 95-96 on the file of the Shimoga munsiffs court produced by the appellants and the written statement filed by the counter petitioner and also hearing the counsels on behalf of both the parties.

"The parties concerned may have recourse to a civil court or seek the aid of arbitrators for the settlement of the dispute relating to the properties in question

The Government order No 3639 Muzy 336-10-2 dated the 14th April 1922. Regarding the properties of the Khaji of the mosque in Sultanpet. Bangalore city produced before the lower court on the analogy of which the decision of the Treasury Assistant-Commissioner is based is enclosed in the file. The grounds of appeal are as follows:-

(1) The Assistant Commissioner erred in not ordering into an enquiry as to the title of

of the enquiry to the property in question and not affording an opportunity to the petitioner to prove it.

(2) The Assistant-commissioner further erred in not making reference as called for in Section 4 of the Muzrai Regulation.

(3) He erred in the opinion that the Government-order quoted by the opponent had any bearing to the present case.

(4) For the foregoing reasons the appellants pray that the order under appeal may be set-aside and either an enquiry may be directed into the title of the property or a reference may be made to the civil court as contemplated under Section 4 of Muzrai Regulation.

The Treasury Assistant-commissioner to whom the petition was forwarded for report states in his No. 1 of 28.2.24 dated 26.6.1923 that regarding the reference to a civil court under Section 4 it is not obligatory that it is open to the parties to proceed as laid down in alternative Section of the Muzrai Regulation.

order

The proceedings were instituted under Section 4 of the Muzrai Regulation on the petition presented by the appellants

that the counter petitioner in his capacity as a trustee "or "mutawali" was grossly & persistently mismanaging the endowed properties of the Jumma Masjid situated in Doddapeta of the Shimoga Town. This petition was referred to the Sub Division officer Shimoga for enquiry & disposal

The Treasury Assistant. commissioner who is the Sub Division officer for the Shimoga Taluk heard the counsels on both sides & opined that it was a matter for the civil court to decide as the counterpetitioner ab initio disputed the title of the masjid to the properties & claimed himself to be the owner thereof.

Heard Mr. T. G. Narayana Iyengar for the appellant & Mr Gundachar for the respondent. It is seen from the record that there was litigation in respect of one of the properties in the court of the munsiff of Shimoga in which it was held that the property belonged to the masjid. In the same suit the counter petitioner & the brother of the counterpetitioner who were his predecessor in title admitted that this property was constructed

out of contribution collected from muslims
for the benefit of mosque. The counter petitioner
now says that those statements are not
binding on him as he was not a party to
the proceedings & as such it cannot be
held that the decree of the munsiff may
be regarded as res-judicata so far as
the claims of the counter petitioner are
concerned.

It is also in record that a dispute
arose so far back as in 1893 with regard
to the ownership of this property & ever -
since the rent payable to the house
by the education Department was
deposited in the Government Savings
Bank under the orders of the Deputy Commissioner
that till now nobody succeeded in establish
-ing the claim & drawing the accumulated
amount.

The Government order quoted by
the petitioner's counsel is not applicable in this
case, it does not restrict the discretion vested
in the munsif officer under section 4 of
for referring such cases to the District Judge.

Having regard to the importance
of the question which has far reaching -
effects on the muslim community which
is born into factions owing to the
attitude adopted by the counter petitioner

and to the welfare of the mosque which as the only constitution of importance in the Town and of some antiquity I consider it essential to refer the dispute to the District Judge Shiyali under section 4 of the Madras Regulation in whose jurisdiction the entire property and the institution are situated.

The following will be the points for reference

(1) Whether the properties are "wakf" properties and actually constituted as such in respect of the Masjid?

(2) Does the Counter petitioner possess any hereditary claims to manage these properties as "mutawalli"?

(3) Has there been mismanagement?

(4) What arrangement in the opinion of the Court would be considered conducive for the efficient management of those properties? Appeal allowed

Sd/ A. K. Syed Tajuddin
Subordinate Judge

17. 4. 24.

Copy applied on 16. 2. 24.
22-4-24
Copy ready on 30-4-24
Copy delivered on 30-4-24
Copied by Sadhasiva Krishna Rao
Compared by R.

Copying fees. 1-6-0
Comparing fees 0-5-6
1-11-6

True Copy
Ramaswamy
Record Keeper

TWO RUPE S

In the Court of the

To the Govt of Mysore

Mysore appeal CASE No 9 OF 1923—1924.

Appellant, ~~Plaintiff~~

Khajameer Mohamed Saheb

Respondent ~~Defendant~~

B.S. Ameer Ahamed Saheb

Vs.

I...the ..Khajameer ahamed.. Saheb .above named do by these presents retain Messrs L SRINIVASIENGAR, L S RAU, MA, (HONS) BL ~~L S SRINIVASIENGAR, BL~~ Advocates to appear in and conduct the above case on ~~my~~..behalf to judgment

2 I..further empower them to execute any decree or order that may be passed in ~~my~~.behalf and to receive from Court such sums of money be entitled to get and to grant receipts therefor

3 . I .also undertake to confirm and ratify all the legal acts done by the said Advocates in so doing

Accepted

Lakshminarasimha

Advocates for appellt

15-11-24

Signed before me and ~~in my~~ his presence and known to me

Ordinary Bond magistrate

B S Iyengar, Printer Bangalore City

WO. RUPEES

ಕೋರ್ಟಿಗೆ –

ನೇಮಕ ಸಂಖ್ಯೆ 1923-24 ನೇ ಸಾಲಿನ ಸೆಪ್ಟೆಂಬರು. 9

ಅರ್ಜಿದಾರ ವಾದಿ
ಅರ್ಜಿದಾರ

VS.

ಅಫೀಲ್ ಪ್ರತಿವಾದಿ
ಅಪ್ಪೊನೆಂಟ್

ಅಫಿಡವಿಟ್ ಮೂಲಕ ರಾ॥ ... ಗೆ

ಈ ಮೊಕದ್ದಮೆಯಲ್ಲಿ ನೀವು ನಮ್ಮ ಪರವಾಗಿ ಕೋರ್ಟಿಗೆ ಹಾಜರಾಗಿ ಮೊಕದ್ದಮೆಯನ್ನು ನಡೆಸಲಿಕ್ಕೂ ಅರ್ಜಿ ವಗೈರೆ ಕಾಗದಪತ್ರಗಳನ್ನು ಕೋರ್ಟಿಗೆ ಹಾಜರ್ಮಾಡಲಿಕ್ಕೂ ನಮಗೋಸ್ಕರ ಕೋರ್ಟಿನಿಂದ ದಸ್ತೈವಜು ವಗೈರೆ ಪಡೆದು ರಶೀದಿ ಕೊಡಲಿಕ್ಕೂ ನಮ್ಮ ಪರವಾಗಿ ಆಗುವ ಡಿಕ್ರಿ ವ ಆರ್ಡರನ್ನು ಅಮಲ್ದಾರಿ ನಡಸಿ ಮೊಬಲಗನ್ನು ನಮಗೋಸ್ಕರ ಬರಮಾಡಿಕೊಂಡು ಕೋರ್ಟಿಗೆ ರಶೀದಿ ಕೊಡಲಿಕ್ಕೂ ಗೈರುಹಾಜರ್ ಸಬುಬು ಮೊಕದ್ದಮೆ ವಜಾ ಯಾ ಡಿಕ್ರಿ ಆಗುವ ಪಕ್ಷದಲ್ಲಿ ಅರ್ಜಿ ವಗೈರೆ ದಾಖಲ್ಮಾಡಿ ಕ್ರಮನಡಿಸುವದಕ್ಕೂ ಈ ಮೊಕದ್ದಮೆಯ ಸಂದರ್ಭಾನುಸಾರ ಅವಶ್ಯಕವಾದ ಎಲ್ಲಾ ಕೆಲಸಗಳನ್ನು ಮತ್ತು ವ್ಯವಹರಣೆಗಳನ್ನೂ ನಡೆಸಲಕ್ಕೂ ಸಹಾ ನಿಮಗೆ ಇದರಿಂದ ಅಧಿಕಾರ ಕೊಟ್ಟಿರುತ್ತೆ. ಆದುದರಿಂದ ನೀವು ನಮಗೋಸ್ಕರ ಕೋರ್ಟಿಗೆ ಹಾಜರಾಗಿ ಈ ಮೊಕದ್ದಮೆಯಲ್ಲಿ ನಡೆಸುವ ಎಲ್ಲಾ ಕೆಲಸಗಳನ್ನೂ ಮತ್ತು ವ್ಯವಹರಣೆಗಳನ್ನೂ ನಾವು ಖುದ್ದು ಇದ್ದು ನಡೆಸಿದಂತೆ ಇದರಿಂದ ಒಪ್ಪುತ್ತೇನೆ.

ರುಜು

ಈ ಮೊಖ್ತ್ಯಾರುನಾಮಾ ಕೊಟ್ಟವರು ನನಗೆ ಪರಿಚಯಸ್ತರಾಗಿ ಸಮಕ್ಷಮ ರುಜುಮಾಡಿರುತ್ತಾರೆ.

B. Ramachandra
Advocate
27-11-24

ಈ ಮೊಖ್ತ್ಯಾರುನಾಮಾ ಅಂಗೀಕರಿಸಿ ಇದ್ದೇನೆ

B. Ramachandra
Advocate
27-11-24

ದಿ ಪವರ್ ಪ್ರಿಂಟಿಂಗ್ ವರ್ಕ್ಸ್, ಬೆಂಗಳೂರು ಸಿಟಿ

Mhz 41

SUBJECT ....

Diary No. of letter replied to _____

Section

File No.

Serial No.

Muzrai Secretariat

( )

, *the* 192 .

No. 163. Qui one.

To

The Muzrai Comr

Date of issue 29-7-24

Signed by Hon T.R. ___

Sir,

I am directed to forward herewith for Report with the entire records connected with the case, petition regd no. 115 from Khazi Mir Mahomed of Shimoga appealing against the Dy. Comrs order refusing the

dispute about the claim
of the Jodpet Jumma
Masjid to certain
properties clo. to the Dy.
Judge, Shimoga, under
Sec. 4 of the Mus. Rags,
and to request that
~~you will be so good as~~
~~to direct~~ the Dy. Com.
may be directed to
stay execution of his
order appealed against
pending orders of
Govt. on the appeal
petition.

I have &c.

28.7.14

(Sd) Rev. Secretary

28/7/14

List of enclos

Copied by

Examined by

WD 0563– GPB—2,500—27-7 22

Muz 4]

SUBJECT ..... 2765 .....

... .

... .

Diary No. of letter replied to _____

Section

File No.

Serial No.

Muzrai Secretariat

( )

, *the* 192 .

No. 162—

Date of issue 24.7.24

Signed by [illegible]

To

Extr granted to Khazi Mir Mahmood of Shimoga (thro. his Adv. Mr. A.J. Khaleel) with ref. to his petition regd. no. 115 appealing against the Dy. Comrs order re the affairs and properties of Sooffa Jumma Masjid at Shimoga.

over.

The petr is informed
That a Report with records
has been called for from
the Dy. Comr. Muzaffarnagar,
who has been directed
to stay execution of the
Dy. Comrs order appealed
against. pending the
disposal of the appeal
petition -

By order

Sd/ Revenue Secretary

28/7/24

List of enclosures.

Copied by

Examined by

WD 0563—GPB—2,500—27 7 22

12964

C 167 of 24-25 Office of the Muzral Commissioner in Mysore.

Encl two and one file Dated Bangalore, 1st September 1924.

From

K. Chandy, Esquire., P.A.,

Muzral Commissioner in Mysore,

Bangalore.

GEN. & REV SECRETARIAT
5 SEP 1924
MUZRAI

Dno 279

Muz
4 - SEP. 1924
R. D. SECTION

To

K. V. Anantaraman, Esquire., P.A., Muz.16-24-

Secretary to the Government of

His Highness the Maharaja of Mysore,

REVENUE DEPARTMENT.

Sir,

With reference to your letter No. 163/M.F.16-24-2 dated 29th July 1924, forwarding for report petition of Khaji Mir Mahomed of Shimoga, I have the honor to submit herewith copy of letter H.C.No.5/Rev.24-25 dated 28th July 1924, together with its enclosures, from the Deputy-Commissioner, Shimoga District, submitting a report in the matter of the dispute relating to the properties and affairs of the Jumma Masjid at the place and stating that the District Judge has been requested to defer further action on the reference made by him to the court pending the disposal of the appeal by Government.

2. A copy of this office letter I.P.No.33 of 25-24 dated 2nd July 1924 to the Deputy Commissioner on the same subject is enclosed for reference.

I have the honor to be,

Sir,

Your most obedient servant,

Muzral Commissioner.

KSR.

letter No.A.P.33 of 23-24 ~~from~~ dated 2nd July 1924 from the Muzrai Commissioner in Mysore to the Deputy Commissioner, Shimoga District.

"With reference to your order in Rev.Miscellaneous Appeal No.12 of 1923-24 (B.S.Amir Ahamed and others VS Mir. Mahamed Sab, Khaji) regarding the settlement of the dispute relating to the affairs and properties of the Jumma Masjid at Shimoga, I have the honor to state that the accompanying appeal against your order has been preferred by Mir.Mahamed Saheb, Khaji and to request that the connected file leading to the order in question may be forwarded immediately, with information whether the masjid is a Muzrai Institution and if so, what are its endowments. If the masjid does not come under the category of Muzrai Institutions as defined in section 3 of the Muzrai Regulation, it should be reported whether a -- Trust in respect of the Masjid properties-to which the present dispute seems to relate, has been actually created under sec.3 of the Muzrai -- Regulation and its management under taken by Government.

2. In this connection I would suggest for your consideration whether it would not be advisable to defer further action in pursuance of your -- letter pending orders of Government on a report to be submitted by me - on receipt of the records now requisitioned."

"Copy"

KSk.

for Muzrai Commissioner. 1/9/24

Letter No.H.C.5/Rev.24-25 dated 26th July 1924 from the Deputy Commissioner, Shimoga District to the Muzrai Commissioner in Mysore.

"With reference to your letter No.Ap:53 of 23-24 dated 2nd -- instant, calling for the submission of the records re: the settlement of dispute relating to the affairs and properties of the Jumma Maszid at Shimoga, I have the honor to forward herewith the entire records -- connected with the case. The Muszid in question does not actually come under the category of the Muzrai Institution as defined in ---- Section 2 of the Muzrai Regulation as would be clear from my order -- appealed against. But it is a religious institution dedicated for the benefit of the Muslim public of Shimoga. As regards the 3rd point -- it is pointed out that it was never maintained or asserted, that the Government had at any time taken management of the properties and that the very fact of the creation of the trust was the point in issue as contemplated in Section 4 of the Muzrai Regulation. It may be further stated that Section 4 does not contemplate that the Government should take over management of the Trust to enable the Muzrai Officer to make reference under that section. I am of opinion that Section 4 of is -- quite independent of section 3 and in fact section 3 deals with cases of undisputed Trust properties while section 4 relates to disputed, as it is evident from the language of the two sections.

The affairs of the Muszid were alleged to be in a very ------- unsatisfactory condition and there has been a long standing dispute re: the ownership of the property. Having regard to the importance of the question which has far reaching effects on the Muslim Community which is torn into factions and to the welfare of the mosque which is the only institution of importance in the town, it was found essential to refer the dispute to the District Judge, Shimoga under section 4 of the Muzrai Regulation and a reference has been made to him accordingly In fact, this course i.e. of making a reference under section 4 or -- section 6 of the Muzrai Regulation was suggested by the counsel of the appellant (Mir Mahmood Sah) in the Lower Court vide para 4 of judgment

judgment of Mr. K.C. Dutt, the Treasury Assistant Commissioner. appeal memo presented before this court, by Mr. T.G.Narayaniengar prayed that a reference might be made under section 4 of the Muzrai Regulation (procedure suggested by the appellant Khaji before the Lower Court). I have requested the District Judge, to defer furtner action in pursuance of my letter pending disposal of the appeal.

2. The enclosures to the above are herewith resubmitted."

"Copy"

for Muzrai Commissioner. 1/9/24

Muz. 21]

27

42

cases are already posted. Even for Saturdays, Except Sundays & the Court will be closed for X mas holidays from the 24th instant. I should wish to tender you on such holidays —

Excuse humble

I remain

yours obediently

B Ganeshachar

Advocate

Re appeal No 9 — 23-24

posted for 29th inst

This is to be

41

Shimoga

27-11-24

To K. R. Sreenivasa Iyengar Esqr

2nd Member of Council

Bangalore

Dear Sir

The bearer of this letter who was my client here has an appeal (Mysore) before you on the 29th inst and I be desired to take me there to argue it as I had conducted the case before the Subordinate Court & the Sessions Court, but as I have already posted criminal cases for that date, I shall feel highly obliged if you find it convenient to help me by adjourning the appeal either to 3rd or 10th January next (Saturday) so that I may run up to Bangalore & finish the case & be back for my cases here. No other date in this month is available for me as

Muz. 21]

42

Before the Government of His Highness the Maharaja of Mysore.

Muz. Appeal No. 9 of 1923-4

Appellant. Vs. Respondents.

Khazi Mir Mahomed. B S Amir Ahamed and others

Subject.

Appeal against Shimoga Deputy Comrs. order dt 14-4-1924 referring the dispute about the claim of the Jumma Masjid in the Dod Pet Shimoga town, consisting of certain mahigeis or shops, to certain properties, to the Dist. Judge, Shimoga, in whose jurisdiction the entire property and the insts are situated.

Order

The case was heard on 10th Janry. 25, Messrs. B. Ganadachar and Khaleel being heard for the appt and Mr. d. S. Raja for respdents

WD 0580—GPB—250—10-5-24

The Dy. Comr. has ordered a
to be made to the civil court under
§ the Inam Regn for a decision regarding
the nature of the properties in dispute.
Sec. 4 of the Regn has to be read along
with Sec. 33 and is applicable only to cases
satisfying the conditions mentioned in
the latter section. The present case
does not satisfy this condition and
Sec. 4 of the Regn cannot be therefore
made applicable to it. The Dy. Comr's.
order directing a reference being made
to the ~~civil court~~ Munsiff under Sec. 4 is accordingly
set aside

It is open however to the Inam Officer
to take action under sections 8 and 9 of
the Inam Regn. and to take over the Instn
under Govt management if on
enquiry it is established beyond doubt
that the properties in question belong
to the institution and are mismanaged, and
that the assumption of their management
by Govt is necessary in public interest.

Memo no. 1298 dt 2·3·25
Inam. II-24-5 to Parties

G. R. S. G/33]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

Copy of the above is forwarded to the Insp. Cons. with the records received with his letter no. C. 167 of 18th sept 1924.

B. O

D/17.2.25

D/ Rev. Secretary

17.2.25

Secretary

The order may be printed

17.2.25

17/2/25

17.2.25

Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE DEPARTMENTS.

G. O. No. 1298—Muz. 16-24-5, dated 2nd March 1925.

Jumma Masjid, Dodpet, Shimoga Town.

Passes orders *re* the claim of the —— to certain maliges and shops.

APPEAL NO. 9 OF 1923-24.

Appellant.		*Respondents.*
Khazi Mir Mahomed.	*Vs.*	B. S. Amir Ahmed and others.

Subject—

Appeal against Shimoga Deputy Commissioner's Order dated the 17th April 1924, referring the dispute about the claim of the Jumma Masjid in the Dodpet, Shimoga Town, to certain properties consisting of certain maliges or shops to the District Judge, Shimoga, in whose jurisdiction the entire property and the institution are situated.

ORDER.

The case was heard on the 10th January 1925, Messrs. B. Gundachar and Khaleel being heard for the appellant and Mr. L. S Raju for respondents :—

The Deputy Commissioner has ordered a reference to be made to the Civil Court under Section 4 of the Muzrai Regulation for a decision regarding the nature of the properties in dispute. Section 4 of the Regulation has to be read along with Section 33 and is applicable only to cases satisfying the conditions mentioned in the latter Section. The present case does not satisfy this condition and Section 4 of the Regulation cannot be therefore made applicable to it. The Deputy Commissioner's Order directing a reference being made to the District Judge, Shimoga, under Section 4 is accordingly set aside.

It is open, however, to the Muzrai Officer to take action under Sections 8 and 9 of the Muzrai Regulation and to take over the institution under Government management if on enquiry it is established beyond doubt that the properties in question belong to the institution and are mismanaged, and that the assumption of their management by Government is necessary in public interest.

MEMO NO. 1298—MUZ. 16-24-5, DATED 2ND MARCH 1925.

Copy of the above is forwarded to the Muzrai Commissioner with the records received with his letter No. C. 167, dated 1st September 1924.

By Order,
K. V. ANANTARAMAN,
Secretary to Government,
Revenue Department.

EXD.—P. R. S. M

W D 1977—GPB—675 27 3 25